

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

J.B. Vol. 15  
# 1956

In re:

Case No. 8:08-20946-KRM  
Chapter 7

SHELBY M. HILL,  
\_\_\_\_\_ /

KATHLEEN R. BROOKS,

Plaintiff,

vs.

Adversary No. 09-00095

SHELBY M. HILL,

Defendant.  
\_\_\_\_\_ /

**ORDER EXCEPTING DEBT FROM  
DISCHARGE AND JUDGMENT IN FAVOR OF PLAINTIFF**

THIS MATTER came before the Court on August 21, 2009, for consolidated trial with *Kathleen Brooks v. Shelby Hill (In re Kathleen R. Brooks)* Case No. 08:07-8893-KRM, Adv. No. 07-529 (seeking avoidance of fraudulent transfer under 11 U.S.C. § 548). The Court makes the following findings:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Determination of whether a debt may be excepted from discharge is a core proceeding under 28 U.S.C. § 157(b)(2).

2. In the companion action, this Court found actual and constructive fraud by the Debtor/Defendant, Shelby M. Hill, and avoided the transfer of Plaintiff Brooks' homestead.

3. The Court hereby incorporates the findings of fact set forth in the Order Avoiding Transfer as Fraudulent Under 11 U.S.C. §§ 548 and 522 (Document No. 32) in Adversary Proceeding No. 8:07-AP-529-KRM entered on October 22, 2009.

4. In this action, Plaintiff Brooks requests that her damages be determined and excepted from discharge under 11 U.S.C. § 523(a).

5. After an examination of the record and consideration of the evidence heard at trial, the Court determines that Plaintiff Brooks is entitled to recover damages in the amount of \$23,350.00. This award is excepted from discharge under 11 U.S.C. 523(a)(2) and (a)(4), as the Court has determined that Debtor/Defendant Hill engaged in actual fraudulent conduct in his transaction with Plaintiff Brooks.

6. For the additional reasons stated orally and recorded in open Court, which shall constitute the decision of the Court, it is hereby

**ORDERED:**

1. Plaintiff Brooks is awarded a judgment in the amount of \$23,350.00 as damages for actual fraud of the Debtor/Defendant Hill for which let execution lay.

2. The damage award of \$23,350.00 to Plaintiff Brooks is excepted from discharge due to the Court's determination that Debtor/Defendant Hill's conduct constituted actual fraud within the meaning of 11 U.S.C. § 523(a)(2) and (a)(4).

**DONE and ORDERED** in Chambers at Tampa, Florida, on Nov. 18, 2009.

*KRM*

K. Rodney May  
United States Bankruptcy Judge